

**Government Code § 6103;  
appearance fees not required**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES**

OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN; ELFEGO  
RODRIGUEZ; AND JAMAL CHILDS,

Plaintiffs,

vs.

BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK. AND DOES 1 THROUGH  
100, INCLUSIVE,

Defendants.

CASE NO. BC 414602

[Assigned to Hon. Joanne O'Donnell, Dept. 37]

[Discovery Referee: Hon. Diane Wayne, Ret.]

**DEFENDANT'S MEMORANDUM IN  
OPPOSITION TO PLAINTIFF STEVE  
KARAGIOSIAN'S MOTION TO COMPEL  
FURTHER RESPONSES TO DOCUMENT  
REQUESTS [ETC.]**

Date: March 11, 2010  
Time: 10:00 a.m.

Action Filed: May 28, 2009  
Trial Date: July 6, 2010

1     **I.     INTRODUCTION**

2             Plaintiff Steve Karagiosian's ("Plaintiff's") Motion to Compel makes no attempt whatsoever  
3     to establish "good cause" for compelling Defendant City of Burbank ("Defendant") to produce "any  
4     and all DOCUMENTS, WRITINGS, and/or RECORDS that RELATE TO, refer to, describe, or  
5     pertain to" nine individuals who were arrested by the Burbank Police Department ("BPD"). Plaintiff  
6     also fails to overcome any of Defendant's objections to his document requests, including the fact  
7     that *the requested documents pertain to ongoing law enforcement investigations and are*  
8     *privileged from disclosure*. And Plaintiff does not even address, let alone purport to satisfy, the  
9     additional mandatory prerequisites for obtaining production of police officer personnel documents,  
10    which his overbroad requests explicitly seek. (See *Pitchess v. Superior Court* (1974) 11 Cal.3d 531;  
11    Pen. Code, § 832.7(a); Evid. Code, § 1043 et seq.) Separately and together, these glaring  
12    deficiencies are more than enough to require that Plaintiff's motion be denied in its entirety.

13            Plaintiff argues that Defendant somehow opened the door for his overbroad document  
14    requests simply by showing him booking photographs of the nine arrestees and asking him about  
15    the arrestees during his deposition. But Plaintiff conveniently neglects to mention that *he refused to*  
16    *answer any substantive questions regarding any arrestee who he recalled taking into custody*, and  
17    instead he invoked the Fifth Amendment privilege against self-incrimination and various other  
18    objections. (See Deft's Motion to Compel Pltf Karagiosian to Answer Depo. Questions, filed Feb.  
19    25, 2010.) Thus, it is Plaintiff, not Defendant, who impermissibly seeks to use discovery privileges  
20    "as a sword and a shield." (Pltf's Motion to Compel Further Responses [etc.] ("Motion"), p. 3.)  
21    Given Plaintiff's refusal to testify, he cannot establish that "any and all" arrestee documents are  
22    relevant or calculated to lead to admissible evidence – let alone that any claimed relevance of such  
23    documents overcomes Defendant's multiple, legitimate objections to their disclosure.

24            Remarkably, Plaintiff alternatively seeks an *evidentiary sanction* precluding Defendant  
25    from offering any evidence relating to the arrestees. This is patently improper. Evidentiary sanctions  
26    are available, if at all, only for violation of a court order compelling document production. No such  
27    order has been issued, and Plaintiff has not established that he is entitled to this discovery in the first  
28    instance. Thus, Plaintiff's motion should be denied in its entirety.

1 **II. PLAINTIFF MAKES NO EFFORT TO SHOW “GOOD CAUSE” FOR DOCUMENT PRODUCTION**

2 It is “black-letter” law that a motion to compel production of documents must “set forth  
3 *specific facts showing good cause* justifying the discovery sought by the demand.” (Code Civ.  
4 Proc., § 2031.310(b)(1), emphasis added; all undesignated section references herein are to the Code  
5 of Civil Procedure.) Thus, it was Plaintiff’s affirmative burden “*to provide evidence* from which  
6 [this Court] may determine” that the requested discovery “... either is itself admissible in evidence  
7 or appears reasonably calculated to lead to the discovery of admissible evidence.” (*Calcor Space*  
8 *Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 223, emphasis added, quoting former  
9 Code Civ. Proc. § 2017(a) [now § 2017.010].) *Mere argument and conclusions are legally*  
10 *insufficient* to show good cause for production of documents. (*Calcor*, at p. 224.)

11 Plaintiff does not even address the threshold “good cause” requirement in his motion, let  
12 alone attempt to satisfy it. *This is a sufficient and mandatory basis, by itself, to deny the motion*  
13 under section 2031.310(b)(1).

14 Indeed, the only facts stated in Plaintiff’s motion are that in his deposition, he was: (1)  
15 shown BPD “booking photographs” of the nine arrestees; and (2) “asked a series of questions about  
16 each individual who was pictured” – i.e., whether Plaintiff was involved in their arrests and knew or  
17 reported anything regarding use of force on the persons. (Motion, p. 3:4-10.) But Plaintiff avoids  
18 informing this Court that *he refused to provide substantive answers as to any arrestee who he*  
19 *recalled taking into custody*, and instead objected based on the Fifth Amendment privilege against  
20 self-incrimination and other grounds. The following is a summary of Plaintiff’s deposition  
21 responses, objections and refusals to answer regarding the nine arrestees:

- 22 • Oscar Aguilera (Pltf. Sep. Stmt., Req. for Prod. of Doc. Nos. 1-2 (“RPD 1-2”)) –  
23 Plaintiff admitted arresting him, but *refused to answer* any questions regarding use of force or  
24 taking him into custody (Cischke Decl., Exh. A, pp. 425:22-433:24).
- 25 • Jesse Aguirre (RPD 3-4) – Plaintiff denied knowing of any involvement in his arrest  
26 or how his apparent injury came about (*id.*, Exh. A, pp. 433:25-435:17).
- 27 • Lucio Estrada (RPD 5-6) – Plaintiff denied knowing of any involvement in taking  
28 him into custody or how his apparent injury came about (*id.*, Exh. A, pp. 435:18-437:2).

- 1           •       Jens Bryan Majano – Plaintiff denied being involved in taking him into custody or  
2 knowing about use of force against him (RPD 7-8) (*id.*, Exh. A, pp. 437:3-439:3).
- 3           •       Manuel Estrada (RPD 9-10) – Plaintiff denied knowing who he is or who caused him  
4 injury (*id.*, Exh. A, p. 439:4-18).
- 5           •       Jose Luis Guevara (RPD 11-12) – Plaintiff ***refused to answer*** any questions about  
6 taking him into custody or use of force (*id.*, Exh. A, pp. 439:19-441:14).
- 7           •       Rene Escarsega (RPD 13-14) – Plaintiff denied being involved in taking him into  
8 custody or knowing about use of force against him, and ***refused to answer*** whether he observed any  
9 BPD officers use force in taking him into custody (*id.*, Exh. A, pp. 441:15-444:7).
- 10          •       Ray Govea (RPD 15-16) – Plaintiff denied knowing who he is or who caused him  
11 injury (*id.*, Exh. A, pp. 444:8-445:10).
- 12          •       Jose Luis Alvarenga – Plaintiff ***refused to answer*** any questions about taking him  
13 into custody or use of force (RPD 17-18) (*id.*, Exh. A, pp. 445:11-448:19).

14           Plaintiff offers ***no legal support*** for suggesting that his requests are justified simply by  
15 Defendant’s deposition questioning and use of booking photos during the deposition. (See Motion,  
16 pp. 3-4.) Instead, Plaintiff’s deposition answers – and refusals to answer, which are the subject of a  
17 motion to compel Defendant filed on February 25, 2010 – show that Plaintiff has ***no factual basis*** to  
18 conclude that any documents regarding the nine arrestees are either relevant or calculated to lead to  
19 admissible evidence.

20           This is particularly true given the vast scope of documents Plaintiff seeks – i.e., “***any and all***  
21 DOCUMENTS, WRITINGS, and/or RECORDS that RELATE TO, refer to, describe, or pertain to”  
22 each of the nine arrestees, “***including without limitation***” various examples. (RPD 1-18.) Such  
23 “blanket demand[s]” hardly constitute the “‘reasonable’ particularity” required under section  
24 2017.210. (*Calcor, supra*, 53 Cal.App.4th at p. 222 [granting writ relief where subpoena sought  
25 production of essentially “everything in your possession which in any way relates to gun mounts”].)  
26 Plaintiff’s requests are not calculated at all. He fails to show the required “good cause” for Court-  
27 ordered production of “any and all” arrestee documents he seeks. This is sufficient, by itself, to  
28 require that Plaintiff’s motion be denied in its entirety.

1 **III. PLAINTIFF IS NOT ENTITLED TO THE RECORDS AS OFFICIAL INFORMATION**

2 Because Plaintiff has failed to establish “good cause” for Court-compelled production of  
3 documents, this Court need not even address Defendant’s objections to Plaintiff’s requests. In any  
4 event, Plaintiff cannot overcome these objections.

5 Plaintiff’s requests *explicitly seek*, “without limitation,” documents pertaining to  
6 investigations, such as “follow-up investigations, use of force investigation reports” and various  
7 other events “as a result of said investigation/arrests.” (RPD 1-18.) Moreover, when asked in his  
8 deposition about his use of force in taking one of the nine arrestees into custody, Plaintiff replied,  
9 “*It’s an ongoing investigation, and I’m not allowed to talk about it.*” (Cischke Decl., Exh. A, pp.  
10 425:22-426:2, emphasis added.) As Plaintiff implicitly concedes, there are ongoing law  
11 enforcement investigations pertaining to *all nine arrestees*. While Plaintiff is incorrect that he is  
12 “not allowed to talk” at all about such investigations (see Deft’s Motion to Compel), there are  
13 statutory privileges against disclosure of *documents* pertaining to such investigations.

14 “Records of complaints to, or investigations conducted by, ... any state or local police  
15 agency, ... or any investigatory or security files compiled by any other state or local agency for  
16 correctional, law enforcement, or licensing purposes,” are *exempt from disclosure* under the  
17 California Public Records Act (“CPRA”). (Gov. Code, § 6254(f).) Furthermore, an agency “shall  
18 justify withholding any record by demonstrating that the record in question is exempt under express  
19 provisions of this chapter or that on the facts of the particular case the public interest served by not  
20 disclosing the record clearly outweighs the public interest served by disclosure of the record.” (Gov.  
21 Code, § 6255(a).)

22 As the Supreme Court has recognized, this exemption encompasses “investigations  
23 undertaken for the purpose of determining whether a violation of law may occur or has occurred. If  
24 a violation or potential violation is detected, the exemption also extends to records of investigations  
25 conducted for the purpose of uncovering information surrounding the commission of the violation  
26 and its agency.” (*Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1071.)

27 Plaintiff seeks to distinguish *Haynie* solely on the grounds that it did not involve a situation  
28 “where the government first released documents regarding individuals who had been arrested, asked

1 questions about the arrests during a deposition, and then refused to produce additional documents  
2 under an assertion of privacy rights.” (Motion, p. 4.) In fact, however, the law enforcement agency  
3 in *Haynie* (the Los Angeles County Sheriff’s Department) **did release** “certain information”  
4 regarding the traffic stop at issue in a “summary of the event.” (*Haynie, supra*, 26 Cal.4th at p.  
5 1065.) The Supreme Court nevertheless held that “the Court of Appeal erred in directing disclosure  
6 of the records in question and in ordering the County to create a log of documents exempt from  
7 disclosure.” (*Id.* at p. 1064.) Clearly, then, *Haynie* does not support Plaintiff’s implication that  
8 Defendant somehow waived any objections to disclosure of the requested investigation documents  
9 simply by showing Plaintiff photos and asking him questions about the arrestees.

10 Plaintiff also ignores several other objections asserted by Defendant in response to the  
11 document requests. In particular, Defendant objected under Evidence Code section 1040, which  
12 provides in pertinent part as follows:

13 “(a) As used in this section, ‘official information’ means information  
14 acquired in confidence by a public employee in the course of his or her duty and not  
15 open, or officially disclosed, to the public prior to the time the claim of privilege is  
16 made.

17 “(b) A public entity has a privilege to refuse to disclose official  
18 information, and to prevent another from disclosing official information, if the  
19 privilege is claimed by a person authorized by the public entity to do so and:

20 “(1) Disclosure is forbidden by an act of the Congress of the United States  
21 or a statute of this state; or

22 “(2) Disclosure of the information is against the public interest because  
23 there is a necessity for preserving the confidentiality of the information that  
24 outweighs the necessity for disclosure in the interest of justice; but no privilege may  
25 be claimed under this paragraph if any person authorized to do so has consented that  
26 the information be disclosed in the proceeding. In determining whether disclosure of  
27 the information is against the public interest, the interest of the public entity as a  
28 party in the outcome of the proceeding may not be considered.”

29 Here, disclosure of “any and all” documents pertaining to the arrestees is not only forbidden  
30 under the specific statutes discussed herein, but also would be “against the public interest” in  
31 preserving the confidentiality of ongoing law enforcement investigations, as specifically recognized  
32 in *Haynie*.

33 Defendant also objected under Penal Code section 841.5(a), which provides that absent  
34 specific exceptions not applicable here, “no law enforcement officer or employee of a law

1 enforcement agency shall disclose to any arrested person, or to any person who may be a defendant  
2 in a criminal action, *the address or telephone number of any person who is a victim or witness in*  
3 *the alleged offense.*” (Emphasis added. See also Pen. Code, § 964 [directing in each county the  
4 establishment of “a mutually agreeable procedure to protect confidential personal information  
5 regarding any witness or victim contained in a police report, arrest report, or investigative report”].)  
6 Plaintiff does not, and cannot, dispute that his requests are broad enough to include documentation  
7 of the addresses and telephone numbers of the nine arrestees, who plainly qualify as “witness[es] in  
8 the alleged offense[s].” This is an additional prohibition against compelled disclosure of the  
9 requested documents.

10 Defendant further objected under Penal Code section 13300, which addresses disclosure of  
11 “‘local summary criminal history information’ ... pertaining to the identification and criminal  
12 history of any person, such as name, date of birth, physical description, dates of arrests, arresting  
13 agencies and booking numbers, charges, dispositions, and similar data about the person.” (Pen.  
14 Code, § 13300(a)(1).) This statute provides that a local law enforcement agency “shall furnish local  
15 summary criminal history information to any” of 16 specified categories of entities or persons.  
16 *Parties to civil lawsuits are not among these specified categories.* (Pen. Code, § 13300(b)(1)-(16).)

17 Notably, this statute also provides “that when information is furnished to assist an agency,  
18 officer, or official of state or local government, a public utility, or any entity, in fulfilling  
19 employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section  
20 432.7 of the Labor Code shall apply.” (Pen. Code, § 13300(b).) Labor Code section 432.7(a)  
21 prohibits employers from asking job applicants to disclose any “information concerning an arrest or  
22 detention that did not result in conviction, or information concerning a referral to, and participation  
23 in, any pretrial or posttrial diversion program,” and prohibits such information from being sought or  
24 utilized as a factor in any employment decision. Penal Code section 13300 and Labor Code section  
25 432.7 thus further underscore the confidential and sensitive nature of documents and other  
26 information pertaining to ongoing law enforcement investigations.

27 Plaintiff’s attempt to overcome Defendant’s objections to disclosure of the requested  
28 investigation documents is flimsy, incomplete and unavailing. His motion should be denied.

1 **IV. PLAINTIFF IGNORES THE *PITCHESS* PROCEDURES FOR OBTAINING POLICE PERSONNEL**  
2 **RECORDS**

3 In addition to their vast overbreadth, Plaintiff's requests *explicitly seek* certain personnel  
4 documents, "including without limitation ... documentation of discipline administered" and  
5 "awards and commendations issued as a result of said investigation/arrests." (RPD 1-18.) Defendant  
6 specifically objected to Plaintiff's requests under Penal Code section 832.7(a) and Evidence Code  
7 section 1043 et seq., which codify the threshold burdens for seeking production of information in  
8 police personnel files set forth in *Pitchess, supra*, 11 Cal.3d 531. (See Pltf. Sep. Stmt., p. 2 and  
9 *passim*. See also Deft. Sep. Stmt., filed herewith.) ***But Plaintiff does not even address Defendant's***  
10 ***objections under the Pitchess statutes, let alone attempt to overcome those objections.***

11 It is well-settled that "the specific Evidence Code procedures relating to discovery of peace  
12 officer personnel records take precedence over the general discovery rules outlined in the Code of  
13 Civil Procedure." (*County of Los Angeles v. Superior Court (Uhley)* (1990) 219 Cal.App.3d 1605,  
14 1611.) Even if Plaintiff had sought to establish "good cause" for production of documents (which he  
15 did not, see pp. 2-3, above), this "is only the first hurdle" on a *Pitchess* motion; the court still must  
16 thereafter review any potentially relevant records in chambers, balancing the interests in discovery  
17 against each officer's right to confidentiality. (*City of Santa Cruz v. Municipal Court* (1989) 49  
18 Cal.3d 74, 84.)

19 In particular, Penal Code section 832.7(a) provides that peace officer "personnel records"  
20 (as defined in section 832.8), "or information obtained from these records, are ***confidential and***  
21 ***shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections***  
22 ***1043 and 1046 of the Evidence Code,***" or except in the context of certain investigations or  
23 proceedings conducted by a grand jury, the District Attorney or the Attorney General. (Emphasis  
24 added.) A *Pitchess* motion for discovery of police officer personnel records "***shall***" be accompanied  
25 by, among other things, "[a]ffidavits showing good cause for the discovery or disclosure sought,  
26 setting forth the materiality thereof to the subject matter involved in the pending litigation ...."  
27 (Evid. Code, § 1043(b)(3), emphasis added.) It is irrelevant whether the requested information could  
28 be culled from other sources; "there is ***nothing*** in the statutory scheme or its history suggesting a



1 legislative intent to exclude from the privilege information which happens to be obtainable  
2 elsewhere.” (*Hackett v. Superior Court* (1993) 13 Cal.App.4th 96, 99, italics in original.)

3 Having ignored the “good cause” requirement for compelled production of documents,  
4 Plaintiff likewise ignores and fails to satisfy the more specific requirements for production of peace  
5 officer personnel records under the *Pitchess* statutes. In particular, the declaration of Plaintiff’s  
6 counsel does not purport to show that the requested discovery is “material” to the subject matter of  
7 this case. At a minimum, then, this Court should deny Plaintiff’s motion to the extent it seeks  
8 production of peace officer personnel records.

9 **V. PLAINTIFF OBVIOUSLY IS NOT ENTITLED TO AN EVIDENTIARY SANCTION**

10 Plaintiff asks this Court “in the alternative” to preclude Defendant “from offering any  
11 evidence during trial, or in any summary judgment motion, regarding the individuals who are the  
12 subjects of the [document] requests.” (Motion, p. 2.) To say the least, Plaintiff seeks to place “the  
13 cart before the horse.” Section 2031.310 – under which Plaintiff’s motion was brought – clearly  
14 *prohibits his request for evidentiary sanctions.*

15 Instead, on an initial motion to compel such as Plaintiff’s, a court may only “impose a  
16 monetary sanction” against the losing party, unless that party “acted with substantial justification or  
17 that other circumstances make the imposition of the sanction unjust.” (Code Civ. Proc., §  
18 2031.310(h).) *Plaintiff does not seek a monetary sanction and does not accuse Defendant of*  
19 *acting without substantial justification.*

20 *Only* “if a party fails to obey an order compelling further response” may the court then  
21 impose “an evidence sanction” or such other “orders that are just.” (Code Civ. Proc., § 2031.310(i);  
22 accord, *Kravitz v. Superior Court* (2001) 91 Cal.App.4th 1015, 1021 [“issue, evidence, and  
23 terminating sanctions must all be preceded by the abuser’s disobedience of an order compelling him  
24 to do that which he should have done in the first instance”].) Because the Court has not even ruled  
25 on Plaintiff’s entitlement to the discovery he requests, *Plaintiff is prohibited by statute from*  
26 *obtaining evidentiary sanctions.*

27 The cases cited by Plaintiff do not, and could not, hold otherwise. (Motion, p. 3.) *None of*  
28 *those cases discussed the language in Section 2031.310(h) and (i) prohibiting the imposition of*

1 *evidence sanctions unless and until a party has violated a court order compelling discovery.*  
2 Instead, all three cases discussed orders precluding a party from “introducing evidence at trial or by  
3 motion to support or oppose designated claims or defenses to which [his] refusal to answer  
4 questions or produce documents whether by invoking [the] Fifth Amendment privilege or otherwise  
5 [related].” (*Dwyer v. Crocker National Bank* (1987) 194 Cal.App.3d 1418, 1432; see *In re Marriage*  
6 *of Hoffmeister* (1984) 161 Cal.App.3d 1163, 1171 [dicta].) As noted in one of the cases, the Fifth  
7 Amendment context is qualitatively different than other situations because “*a court may not issue*  
8 *an order compelling incriminating testimony*,” and therefore “would be rendered powerless to deal  
9 with the situation” unless it could preemptively preclude evidence relating to the invocation of the  
10 privilege. (*A&M Records, Inc. v. Heilman* (1977) 75 Cal.App.3d 554, 567, fn. 8, emphasis added.)

11 Outside the Fifth Amendment context, Section 2031.310 clearly precludes Plaintiff from  
12 obtaining any evidentiary sanction before obtaining an order compelling production of the requested  
13 documents. And because Plaintiff has neither established “good cause” for such production nor  
14 overcome Defendant’s objections, he is entitled to no relief at all.

15 **VI. CONCLUSION**

16 Defendant respectfully asks this Court to deny Plaintiff’s motion in its entirety.

17 DATED: February 26, 2010

BALLARD, ROSENBERG, GOLPER & SAVITT LLP

18 By: 

19 John J. Manier

20 Attorneys for Defendant CITY OF BURBANK,  
21 including the Police Department of the City of Burbank  
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28

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age of  
4 eighteen years and not a party to the within action; my business address is 500 North Brand  
Boulevard, 20th Floor, Glendale, California 91203-9946.

5 On February 26, 2010, I served the following document(s) described as **DEFENDANT'S**  
6 **OPPOSITION TO PLAINTIFF STEVE KARAGIOSIAN'S MOTION TO COMPEL**  
7 **FURTHER RESPONSES TO DISCOVERY REQUESTS [ETC.]** on the interested parties in  
this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

8 Solomon E. Gresen, Esq.  
9 Steven V. Rheuban, Esq.  
10 Law Offices of Rheuban & Gresen  
11 15910 Ventura Boulevard, Suite 1610  
12 Encino, CA 91436  
13 Tel: (818) 815.2727 • Fax: (818) 815-2737  
14 [seg@rglawyers.com](mailto:seg@rglawyers.com)

15 ☒ **BY ELECTRONIC MAIL TRANSMISSION:** By electronic mail transmission from  
16 [kthomson@brgslaw.com](mailto:kthomson@brgslaw.com) on February 26, 2010, by transmitting a PDF format copy of such  
17 document(s) to each such person at the e-mail address listed below their address(es). The  
document(s) was/were transmitted by electronic transmission and such transmission was  
reported as complete and without error.

18 ☐ **BY MAIL:** I am "readily familiar" with Ballard Rosenberg Golper & Savitt's practice for  
19 collecting and processing correspondence for mailing with the United States Postal Service.  
20 Under that practice, it would be deposited with the United States Postal Service that same  
day in the ordinary course of business. Such envelope(s) were placed for collection and  
mailing with postage thereon fully prepaid at Glendale, California, on that same day  
following ordinary business practices.

21 ☐ **BY FACSIMILE:** At or before 5:00 p.m., I caused said document(s) to be transmitted by  
22 facsimile. The telephone number of the sending facsimile machine was (818) 506-4827.  
23 The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth  
in the service list. The document was transmitted by facsimile transmission, and the sending  
facsimile machine properly issued a transmission report confirming that the transmission  
was complete and without error.

24 ☒ **BY FEDEX:** I deposited such document(s) in a box or other facility regularly maintained  
25 by FedEx, or delivered such document(s) to a courier or driver authorized by FedEx to  
26 receive documents, in an envelope or package designated by FedEx with delivery fees paid  
or provided for, addressed to the person(s) being served.

27 I declare under penalty of perjury under the laws of the State of California that the foregoing  
28 is true and correct. Executed on February 26, 2010, at Glendale, California.

  
Karen J. Thomson